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January 11, 2019

VIA ECF

Honorable Susan D. Wigenton
United States District Judge
United States District Court for the District of New Jersey
Martin Luther King Building & U.S. Courthouse
50 Walnut Street
Newark, NJ 07101

**Re: United States v. William E. Baroni, Jr. and Bridget Anne Kelly,
Crim. No. 15-193 (SDW)**

Dear Judge Wigenton:

Pursuant to the Court's Order of December 16, 2018 (ECF No. 367), this office as counsel to Defendant William Baroni writes to provide a status update on the matter.

On January 4, 2019, Mr. Baroni informed the Third Circuit that he did not intend to petition for panel rehearing or rehearing *en banc* in this matter, because the pendency of such a petition would prevent issuance of the mandate and the return of jurisdiction to the District Court. Mr. Baroni is still evaluating his remaining appellate rights and he has until February 25, 2019 to petition the Supreme Court of the United States for a *writ of certiorari*. Nevertheless, once the Third Circuit issues the mandate and remands the case to this Court, Mr. Baroni respectfully requests that this matter be set for re-sentencing as soon as practical.

In addition, Mr. Baroni respectfully requests an opportunity to meet with the U.S. Probation Office ("Probation") to provide information about his post-sentencing activities that would be relevant for re-sentencing given the prolonged period between the original sentencing and the present one. The Supreme Court has made clear that a district court should have the opportunity to consider such information in connection with resentencing. *See Pepper v. United States*, 562 U.S. 476, 490, (2011) ("[W]e think it clear that when a defendant's sentence has been set aside on appeal and his case remanded for resentencing, a district court may consider evidence of a defendant's rehabilitation since his prior sentencing and that such evidence may, in appropriate cases, support a downward variance from the advisory Guidelines range."). Probation and the government take no position regarding this request.

Accordingly, once the mandate has been issued returning jurisdiction to this Court, we respectfully request that Your Honor enter an Order: (1) directing Probation to meet with Mr. Baroni to gather facts that developed during the pendency of this appeal that may be relevant to

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re-sentencing; and (2) setting the date for the re-sentencing of Mr. Baroni as well as a schedule for the submission of a supplemental sentencing memorandum. A proposed form of Order is attached.

Thank you for Your Honor's courtesies and consideration.

Respectfully submitted,

/s/Mayling C. Blanco

Mayling C. Blanco

MCB

Encl.

cc: Lee M. Cortes, Jr., Asst. U.S. Attorney (w/ enc.) (via ECF)
Vikas Khanna, Asst. U.S. Attorney (w/ enc.) (via ECF)
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Michael Critchley, Sr., Esquire (w/ enc.) (via ECF)

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW JERSEY**

UNITED STATES OF AMERICA,

v.

WILLIAM E. BARONI, JR., and BRIDGET
ANNE KELLY,

Defendants.

Hon. Susan D. Wigenton

Docket No.: Cr. 15-193 (SDW)

**ORDER SETTING SCHEDULE
FOR RE-SENTENCING OF
DEFENDANT WILLIAM E. BARONI**

THIS MATTER having come before the Court upon the application of Blank Rome LLP counsel for defendant William E. Baroni, Jr. ("Baroni"); and this Court having granted bail pending appeal during Baroni's sentencing hearings and the Third Circuit having issued its opinion; and this Court having ordered Baroni to notify if he intended to petition the Third Circuit for panel rehearing or rehearing *en banc*; and the defendant having advised the Court by letter dated January 11, 2019 of his decision not to pursue such petition and of the status of his remaining appellate rights; and for good cause shown:

IT IS, on this _____ day of January, 2019,

ORDERED that Baroni's re-sentencing is scheduled for _____, 2019; and

IT IS FURTHER ORDERED that the U.S. Probation Office shall meet with Baroni by _____, 2019 to gather facts that have developed during the pendency of the appeal that may be relevant to re-sentencing;

IT IS FURTHER ORDERED that Baroni shall have until _____, 2019 to submit a supplemental sentencing memorandum.

HONORABLE SUSAN D. WIGENTON
UNITED STATES DISTRICT JUDGE